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ARTICLE I. INCORPORATION--FORM OF GOVERNMENT--POWERS

Section 1.01. Incorporation.

The inhabitants of the City of Longview, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Longview."

Section 1.02. Form of government.

The municipal government provided by this Charter shall be known as the "council-manager" form of government. Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this Charter all powers of the city shall be vested in an elective city council which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the city.

Section 1.03. Powers of the city.

The city shall have all powers possible for a city to have under the constitution and laws of this state, as fully and completely as though they were specifically enumerated in this Charter. All such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, and, when not prescribed herein, in such manner as may be provided by ordinance or resolution of the council of the City of Longview.

The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city may have and shall exercise all other powers which, under the constitution of the State of Texas, it would be competent for the Charter specifically to enumerate. The City of Longview shall have and exercise all the powers conferred upon cities by what is known as the home rule amendment to the Constitution of the State of Texas and the enabling act and all other laws passed or which may hereafter be passed by the legislature in relation to such matters.

The City of Longview may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with the government of Texas or any agency thereof, or with the federal government or any agency thereof, or with the government of any county, city, or political subdivision to accomplish any lawful municipal purpose.

Section 1.04. City limits; extension of boundaries.

- (a) The boundaries of the City of Longview shall be the same as have heretofore been established, as of this date, which boundaries are more fully set out on an official map recorded in the City to be kept in the office of the City Secretary and City Engineer, and here referred to for a more complete description.
- (b) The boundaries may be altered by extension through annexation or contraction through disannexation by the procedures set forth in this Charter and Chapter 43 of the Texas Local Government Code, as amended, or as otherwise specified by State law.

- (c) Territory adjacent to the City may be annexed by ordinance with or without the consent of the owners or inhabitants thereof, subject to such procedural rules as set forth in Chapter 43 of the Texas Local Government Code, as amended, or as otherwise specified by State law.
- (d) Upon presentation of a petition in writing signed by a majority of qualified voters of adjacent territory, the City Council after hearing arguments for and against such action, may by ordinance annex such territory into the City. Hearing on such petition shall take place not less than five (5) nor more than thirty (30) days after the date of filing. At any time within ninety (90) days after the public hearing, an ordinance may be introduced providing for the annexation of the territory described in such petition.
- (e) Territory lying within the boundary limits of the City and adjacent to the outer limits may be disannexed from the City upon presentation to the City Council of a petition in writing signed by a majority of the qualified voters within the territory. Sparsely inhabited territory containing less than one hundred (100) residents may be disannexed by the City Council, when the City Council determines that such disannexation is for the best interests of the City. The City Council, after hearing the arguments for and against such proposed disannexation, may grant or deny the request; refunds as to taxes and fees shall be in accordance with Chapter 43 of the Texas Local Government Code, as amended, or as otherwise specified by State law.¹

Section 1.05. Public improvements.

- (a) *Streets.* The City of Longview shall have exclusive dominion, control and jurisdiction in, upon, and over and under public streets, avenues, alleys and highways of the city and may provide for the improvement thereof by paving, repaving, raising, draining or otherwise in accordance with the provisions of the general laws of the State of Texas. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets avenues, alleys and highways of the City of Longview shall also include, but not be limited to, the right to regulate, locate, relocate, remove, or prohibit the location of, all utility pipes, lines, wires or other property,
- (b) *Other improvements.* The City of Longview shall have the power to provide for the improvement of drainage facilities and to extend its water and sewer systems and assess a part of the cost of such improvements against abutting property owners as in the case for street improvements according to the procedures set forth in the general laws of the State of Texas, and fix a lien to secure the cost of such assessments as therein provided and issue assignable certificates.

ARTICLE II. THE CITY COUNCIL

Section 2.01. Composition of council.

Except as otherwise provided by the Charter of the City, all powers conferred on the City shall be exercised by a City Council to be composed of a Mayor and six (6) Members, nominated and elected in the manner provided in Article III of this Charter, unless otherwise prescribed by law. They shall each be elected for a term of three (3) years. The Council Members so elected shall serve until their respective successors shall have been elected and shall have qualified.

Beginning with the election to be conducted on the first Saturday in May, 2001, neither the Mayor nor any Member of the City Council elected from and after said date shall be elected for more than three (3) full consecutive terms of three (3) years each in the same position on the City Council as a councilperson.

Section 2.02. Mayor and mayor pro tem.

The mayor shall be the official head of the city government. He shall be the chairman and preside at all meetings of the council. The mayor may vote on every proposition before the council but shall have no power to veto. He shall perform duties consistent with this Charter as may be imposed upon him by the council.

The mayor pro tem may be elected by the city council from its membership. The mayor pro tem shall act as mayor in the case of the absence or inability of the mayor to perform the duties of office and in this capacity shall be vested with all of the powers conferred upon the mayor.

Section 2.03. Council qualifications.

The Mayor and each member of the City Council shall have the following qualifications:

- (a) be at least twenty-one (21) years of age;
- (b) have resided within the City and applicable district for six (6) months prior to the filing deadline for that election; and
- (c) meet all other eligibility requirements of the Texas Election Code.

Section 2.04. Forfeiture of office.

The Mayor or any Councilman shall forfeit his office if he:

- (a) Lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law;
- (b) Violates any express prohibition of this Charter;
- (c) Is finally convicted of a felony from which he has not been pardoned or otherwise released from the legal disability; or
- (d) Fails to attend three (3) consecutive regular council meetings or six (6) council meetings in any calendar year without being excused by the Council.

Section 2.05. Council quorum.

A quorum shall consist of four (4) members, which may include the mayor, where the number of councilmen, including the mayor, due to vacancies, is reduced to less than five (5), in which event a quorum shall consist of all the remaining councilmen; but a less number than a quorum may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

Section 2.06. Council rules.

The council shall determine its own rules of procedures, and may punish its members for misconduct, and may compel the attendance of absent members.

Section 2.07. Vacancies in the city council; how filled.

- (a) If a vacancy occurs in the office of Mayor or on the City Council on or before one hundred twenty (120) days before a regular election for City Council, the vacancy shall be filled at a special election for that purpose. At its next regular meeting after the occurrence of the vacancy, the City Council shall call for a special election to be held on a date that conforms with the uniform election dates set out in the Texas Election Code, as amended, if a uniform election date occurs within the one hundred and twenty (120) day period for the special election. If no such uniform election date is available, then the date for the special election shall be set within one hundred twenty (120) days from the date the vacancy occurred; and except as otherwise provided in this Charter such special election laws as set out in the Texas Election Code, as amended, shall be applicable to, and control in all such elections.
- (b) A person elected either at a special election or a regular election to fill a vacancy in the office of Mayor or on the City Council shall serve only the unexpired term of the Mayor or City Council Member whose place has been declared vacant, as the case may be.
- (c) If a candidate duly elected either to the office of Mayor or to the City Council at the general election fails to take the oath of office on or before ten (10) days after the official canvass of the election, then his place shall be considered a vacancy and filled as herein provided for other vacancies. In the event such a candidate, elected either to the office of Mayor or to the City Council at a special election, fails to take the oath of office on or before ten (10) days after the official canvass of the election, then his place shall be considered a vacancy and filled as herein provided for other vacancies.

Section 2.08. Prohibiting holding or running for other office.

- (a) No person elected to the office of Mayor or to the City Council shall, during the term for which he was elected, be appointed to any office or position of emolument in the service of the City.
- (b) The Council or any member of the City Council shall forfeit his place on the Council, as required by Article 11, Section 11 of the Texas Constitution, if he becomes a candidate for nomination or election to any public office other than a place on the City Council or if he becomes a candidate for election to any different place on the City Council which requires him to take office prior to the end of his elective term.

- (c) The Mayor or any member of the City Council affected by subsection (b) shall carryover or holdover in his service in the position as permitted by Article 16, Section 17 of the Texas Constitution.

Section 2.09. City council may summon witnesses, etc.

The city council shall have power to summon and compel the attendance of witnesses and the production of books and papers before it whenever it may be necessary for the more effective discharge of its duties, and shall have the power to punish for contempt before it with the same fines and penalties as the county judge may punish for contempt before the county court. All process shall be signed by the Mayor and attested by the City Secretary and shall be served by the Chief of Police or any police officer of the City.

Section 2.10. No interference by council.

Subject to the council's authority to approve all appointments of administrative officers or directors of departments of the city under section 5.03(a) of this Charter, neither the council nor any of its members shall dictate the appointment by the city manager of any person to city offices or employment. Except for the purpose of inquiry, the council and its members shall deal with that part of the administrative service for which the city manager is responsible solely through such manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager in said departments, either publicly or privately.

Section 2.11. Investigations.

The Council, the City Manager or any person or committee authorized by either or both of them shall have power to inquire into the conduct of any department or office of the City; to make investigations as to City affairs, and for that purpose may subpoena witnesses, request the administration of oaths by the City Secretary for purposes necessary in regards to this section, and compel the production of books, papers and other evidence material to said inquiry. The Council may provide by ordinance penalties for contempt in refusing to obey any such subpoenas or failure to produce books, papers and other evidence, and shall have the power to punish any such contempt in the manner provided by ordinance.

Section 2.12. Regular meetings.

On the day the members of the city council take office, they shall meet at the building designated as the official city hall and thereafter all regular meetings of the city council shall be held in the city council chamber in such building at such times as may be prescribed by ordinance or resolution; but not less than one regular meeting shall be held each month unless postponed or cancelled for valid reasons, to be recorded in the minutes.

Section 2.13. Special meetings.

Special meetings shall be called by the city secretary upon the written request of the mayor, city manager or three (3) members of the council. All councilmen shall be given notice of such meeting at least twelve (12) hours prior thereto whenever practicable and therein shall be stated the subject to be considered at the special meeting and such may provide for the taking up of any other business provided at such meeting.

Section 2.14. Open meetings.

All official meetings, including all regular and special meetings, of the Council, and all boards, commissions and committees thereof shall be open to the public as provided by the [State of] Texas Open Meetings Act as amended, or as otherwise specified by State law. The City Council shall provide for reasonable opportunity for citizens to be heard at all open meetings concerning any subject considered thereat under such rules as the Council may provide.

Section 2-14 [2-151]. Financial loss by elected city officials.

Duly elected city officials acting in their official capacity shall be protected by the city from personal financial loss resulting from council decisions made while in official sessions as a result of law suits filed pertaining to such decisions.

ARTICLE III. MUNICIPAL ELECTIONS

Section 3.01. Holding of municipal elections.

All municipal elections shall be held under the provisions of this Charter unless the laws of the State of Texas applicable to city elections require otherwise.

Section 3.02. Qualifications of voters.

All residents of the City of Longview who shall have qualified to vote in accordance with the provisions of the Texas Election Code shall have the right to vote in all city elections.

Section 3.03. General election.

No primary election shall be held in the selection of nominees to the City Council unless specifically required by State law. General elections for the purpose of electing members of the City Council shall be held on the first Saturday in any of each year, or as otherwise may be prescribed by the Texas Election Code, as amended.

Section 3.04. Election of council members.

All qualified voters of the city shall be entitled to vote for the candidate for mayor and for one candidate from District Numbers 1, 2, 3, 4, 5 and 6, corresponding to the district of which the voter is a resident.

Section 3.05. District limits.

The city shall be divided into six (6) districts, known as Districts 1, 2, 3, 4, 5 and 6. The city council shall, as often as deemed reasonable, determine as nearly as practicable the population of the respective districts and shall, by ordinance, revise the boundaries of any or all of said districts to maintain a substantial equality of population in each. Within sixty (60) days after the adoption of this Charter, the city council shall by ordinance designate the original district limits.

Section 3.06. Candidate's residence.

- (a) No person shall be eligible as a candidate for member of Council District Numbers 1, 2, 3, 4, 5 or 6, unless he is at the time a bona fide resident of District 1, 2, 3, 4, 5 or 6, and has resided therein for a period of at least six (6) months prior to the date of the election. Any Council candidate residing in an area annexed to the City for less than six (6) months is eligible if the candidate resided in the area continuously for six (6) months prior to the date of the election, including time prior to annexation, and the area of residency is included in the District where the candidate seeks election as prescribed by the [State of] Texas Election Code as amended. He shall continuously reside in said district during his term of office. The candidate for Mayor may be a resident of any portion of the City, shall have resided in the City for a period of six (6) months prior to the date of the election, and shall continuously reside within the City during his term of office. Any Mayoral candidate residing in an area annexed to the City for less than six (6) months is eligible if the candidate resided in the area continuously for six (6) months prior to the date of the election, including time prior to the annexation, as prescribed by the Texas Election Code, as amended.
- (b) If the district in which a person will have resided for at least six (6) months prior to the date of an election will change because of the relocation of a district boundary, the person is eligible to become a candidate:
 - (1) For the new district assigned to his residence; or
 - (2) For the previous district of his residence if he moves his residence within the revised boundaries of that district prior to becoming a candidate for election.

Section 3.07. Nomination.

A person desiring to become a candidate for Mayor or for any place on the City Council shall be entitled to have his name placed on the official ballot if he files with the City Secretary, not less than forty-five (45) days nor more than seventy-five (75) days prior to the election, or as otherwise may be prescribed by the Texas Election Code, as amended, a sworn application verifying his qualifications as provided in Section 2.03 of this Charter and stating that he is a candidate for Mayor or the district number for which he is running, as the case may be.

Section 3.08. Designation of official ballot.

The mayor shall be designated on the official ballot as "mayor."

The districts on the official ballot shall be designated as "Member of Council, District No. _____," designating the district numbers for which the voters in each district are eligible to vote, such to be in numerical order, and the candidate's name shall appear in the district for which he filed his application. The city secretary shall make up the official ballot from the names so presented to him in the manner hereinabove set out. The order in which the names of the candidates for each district shall appear on the ballot shall be determined by lot in a drawing held under the supervision of the city secretary.

Section 3.09. Canvass of election.

Not earlier than the third day or later than the sixth day following either a general or special election, or as otherwise may be prescribed by the Texas Election Code, as amended, the City Council shall convene in a meeting of the Council Chambers and canvass and certify the results of such election.

Section 3.10. Candidates elected.

A candidate in said election receiving a majority of the votes cast for the position of mayor and for the position of councilman for the district for which he is a candidate, as the case may be, shall be declared elected. If none of the candidates for such position receives a majority vote, then none of the candidates for that office shall be elected and a run-off election shall be held among the two (2) candidates who receive the greatest number of votes for such position. In the event of a run-off, the city council shall immediately order a run-off election, which shall be held not less than twenty (20) nor more than thirty (30) days after the canvass of the election in which a run-off is required. Notice of such run-off election shall be given and the election shall be held in the same manner as the general or special election in which the run-off occurred. At such election, only the names of the two (2) candidates who received the greatest number of votes for such position shall be printed on the ballot and any write-in votes cast for any other person shall be void and shall not be counted for any purpose.

Section 3.11. Reserved.

ARTICLE IV. ORDINANCES AND RESOLUTIONS

Section 4.01. Council action.

The city council shall evidence its official actions by written ordinances, resolutions or oral motion. The use of one method or the other shall not affect the validity of the action, except in those instances where one or the other is required by state law or this Charter.

Section 4.02. Style of ordinances and resolutions.

The style of all ordinances shall be: "Be It Ordained By The City Council Of The City Of Longview," and the style of all resolutions shall be: "Be It Resolved By The City Council Of The City Of Longview." In each case words of like import may be used, but such caption may be omitted when said ordinances are

published in book form, or are revised and digested under the order of the council.

Section 4.03. Passage.

All ordinances and resolutions of the city council, unless otherwise provided by state law, this Charter, or the ordinance itself, shall be final on the passage or adoption by the required majority pursuant to one motion duly made, seconded and passed. Where the state law or this Charter provides for a different procedure before the action of the council may become final, then in that event, the council shall follow the procedure required.

Section 4.04. Voting.

The vote upon the passage of any ordinance, resolution or motion shall be taken by voice vote unless otherwise requested by a member of the city council, in which case a roll call vote shall be taken. The results of all voting shall be entered upon the minutes of the proceedings of the council. Every ordinance, resolution, or motion shall require on final passage the affirmative vote of a majority of the members present unless more is required by state law or this Charter.

Section 4.05. Effective date.

All ordinances and resolutions passed by the city council shall become effective immediately from and after final publication, except in the following instances:

- (a) Where the state law or other provisions of this Charter provide otherwise, in which case the effective date shall be the earliest time therein prescribed.
- (b) Where the ordinance or resolution prescribes a different effective date.
- (c) Where an ordinance or resolution is adopted under the initiative and referendum provisions of this Charter, in which case the effective date thereof shall be immediately after the canvass of the election.

Section 4.06. Enrollment.

Each ordinance, resolution and motion passed by the city council shall be enrolled by the city secretary within five (5) days after its passage, or as soon thereafter as practicable. It shall then be carefully compared with the original and all amendments, if any, by the city attorney. If errors exist therein, they shall be corrected.

Section 4.07. Publication of ordinances.

The descriptive caption or title of each ordinance stating in summary the purpose of the ordinance and the penalty for violation thereof shall be published at least once in the official newspaper of the city, unless otherwise provided by state law or this Charter, in which event the specific provisions shall be followed.

Section 4.08. Codification of ordinances.

The city council shall have power to cause the ordinances of the city to be printed, in Code form,

and shall have the same arranged and digested as often as the council may deem advisable; however, failure to print the ordinances as herein provided shall not affect the validity of the same.

Section 4.09. How plead.

In all judicial proceedings, it shall be sufficient to plead any ordinance by caption, or by the number of sections thereof wanted, and it shall not be necessary to plead the entire ordinance or section. All ordinances of the city, when printed and published and bearing on the title page thereof "Ordained and Published by the City Council of the City of Longview," or words of like import, shall be prima facie evidence of their authenticity and shall be admitted and received in all the courts and places without further proof.

Section 4.10. Approval of mayor not necessary.

The approval or signature of the mayor shall not be necessary to make an ordinance or resolution valid.

ARTICLE V. THE CITY MANAGER

Section 5.01. Appointment; qualifications; compensation.

The council shall appoint a city manager for an indefinite term and fix his compensation. The manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the city or state at the time of his appointment but shall reside within the City of Longview while in office.

Section 5.02. Removal.

The council may remove the manager from office in accordance with the following procedures:

- (a) The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from

duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the manager.

- (b) Within five (5) days after a copy of the resolution is delivered to the manager, he may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The manager may file with the council a written reply not later than five (5) days before the hearing.
- (c) The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the council in suspending or removing the manager shall be final and not subject to review by any court or agency.

Section 5.03. Powers and duties of the city manager.

The City Manager shall be the chief executive and administrative officer of the City. He shall be responsible to the Council for the administration of all City affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

- (a) He shall, with approval of the council, appoint the administrative officers or directors of the city's departments which are provided for by or under this Charter and shall make all appointments of lesser positions in the city's service on recommendations of the administrative officer or director of the department affected. When he deems it necessary for the good of the city, he may suspend or remove any city employee provided, however, that no administrative officer as head of a department may be suspended or removed without the consent of the council.
- (b) He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by statute.
- (c) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.
- (d) He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (e) He shall prepare and submit the annual budget and capital program to the Council.
- (f) He shall be responsible for the submission to the Council and made available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (g) He shall make such other reports as the Council may require concerning the operations of

City departments, offices and agencies subject to his direction and supervision.

- (h) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the council concerning the affairs of the City as he deems desirable.
- (i) He shall perform such other duties as are specified in this Charter or may be required by the Council.
- (j) He shall be responsible for the proper handling, disbursement and reporting on all matters of finance, purchasing, property management and other acts required under Article IX of this Charter.
- (k) He shall have additional specific contracting authority as may be established by ordinance of the City Council.

ARTICLE VI. CITY SECRETARY

Section 6.01. Appointment; removal; compensation.

The city council shall appoint a city secretary who shall serve at the discretion of the council. He shall receive such compensation as shall be fixed by the council.

Section 6.02. Duties of the city secretary.

The City Secretary shall:

- (1) Attend all meetings of the City Council and keep accurate records of all actions taken by the Council;
- (2) Maintain the official records and files of the City;
- (3) Administer oaths in any matter pertaining to municipal affairs;

- (4) Attest contracts, assessment certificates and other legal instruments when executed by the authorized officers of the City;
- (5) Serve as the election official for all City elections; and
- (6) Perform such other duties as may be required of him by this Charter, the City Council, or State law.

ARTICLE VII. ADMINISTRATIVE DEPARTMENTS

Section 7.01. General provisions.

- (a) *Creation of departments.* The council may by ordinance establish city departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.
- (b) *Direction by manager.* All departments, offices and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the city manager. The appointments of the directors of all departments established by the council or by this Charter shall be subject to the approval of the council, but approval by the council shall not be required for the heads of subdivisions of any department, office or agency, or of any other subordinate employee of the city. The city manager may serve as head of one or more such departments, offices or agencies or may appoint one person as the head of two (2) or more of them.

Section 7.02. Personnel rules.

The city manager shall prepare personnel rules and the council may by ordinance adopt them with or without amendment. These rules shall provide for:

- (a) The classification of all city positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
- (b) A pay plan for all city positions;
- (c) Methods for determining the merit and fitness of candidates for appointment or promotion;
- (d) The policies and procedures regulating reduction in force and removal of employees;
- (e) The hours of work, attendance regulations and provisions for sick and vacation leave;
- (d) The policies and procedures governing persons holding provisional appointments;
- (g) The policies and procedures governing relationships with employee organizations;
- (h) Policies regarding in-service training programs;
- (i) Grievance procedures; and
- (j) Other practices and procedures necessary to the administration of the city personnel system.

Section 7.03. City attorney.

The city council shall appoint a city attorney from recommendations of the city manager, or by any member of the city council, who shall be duly licensed to practice law in the State of Texas. He shall receive for his services such compensation as may be fixed by the council. He may be removed at any time by majority vote of the city council.

The city attorney shall represent the City of Longview in all its litigation. He shall be the legal advisor of and attorney and counsel for the City of Longview, the council and all boards, commissions and agencies, and all officers and departments thereof.

The city attorney shall have authority to appoint one or more assistants, subject to approval of the city manager, such assistant or assistants to hold office at the will of the city attorney so long as he remains as such.

Notwithstanding the above provisions, the council may engage special legal counsel to represent the City of Longview in any specific matter or for the performance of any specifically delineated duties otherwise to be performed by the city attorney.

Section 7.04. Independent audit.

The Council shall cause an independent audit to be made of the books of account, records and transactions of all the administrative departments of the City at least once yearly. Such audits, during such fiscal year, shall be made by one or more certified public accountants who, for the three (3) years

next preceding, have held a certificate issued by the State Board of Accountancy of the State of Texas, or by a state maintaining an equal standard of professional requirements, which entitled the holder of such certificate to a [State of] Texas certificate. The auditor or auditors to make the audit shall be selected by the Council, and shall be responsible to the Council. The duties of the auditor or auditors so appointed shall include the certification of all statements required of the City Manager in his annual budget estimate, as well as any additional duties which may be assigned by the City Council to the auditor(s), as deemed necessary in the carrying out of budgetary responsibilities. Such statements shall include a balance sheet, exhibiting the assets and liabilities of the City, supported by departmental schedules, and schedules for each utility publicly owned or operated, summaries of income and expenditures, supported by detailed schedules; and also comparisons, in proper classification, with the last previous year. The report of such auditor or auditors for the fiscal year shall be printed and a copy thereof shall be furnished to each member of the Council and the City Manager and a copy shall be kept available in the office of the City Secretary for inspection by any citizen upon request. A summary of such report of the auditor or auditors shall also be published once in the official newspaper. The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the City Secretary within one hundred and twenty (120) days after the last day of the fiscal year, or as otherwise may be prescribed by State law.

ARTICLE VIII. MUNICIPAL COURT

Section 8.01. Municipal court.

There shall be a court known as the municipal court of the City of Longview, with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

Section 8.02. Judge of the municipal court.

The municipal court shall be presided over by a magistrate who shall be known as the judge of the municipal court. The judge shall be appointed by the council to serve at the discretion of the council.

He shall have been admitted to practice law in the State of Texas for not less than two (2) years and shall have resided in the City of Longview for a period of not less than two (2) years immediately preceding his appointment.

In the event the judge of the municipal court is unable to act for any reason, the council shall appoint an attorney possessing the qualifications required above to act in his place. The judge, or anyone acting in his place, shall receive such compensation as may be set by the council.

The council shall have the power to create and establish additional municipal courts, and to appoint more than one judge of each municipal court, whether one or more, each of whom shall be a magistrate and shall have the qualifications and serve at the discretion of the council.

Section 8.03. Clerk of the municipal court.

There shall be a clerk of the municipal court who shall be appointed by the city manager. The clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process of such court and conducting the business thereof.

Section 8.04. Authority, powers and procedures of municipal court.

The authority, powers, and procedures specified by Chapter 30, Subchapter A of Government Code, as amended or as may be hereafter amended, are hereby incorporated herein and made a part of this Charter for all purposes. If a provision(s) of Chapter 30, Subchapter A, as amended, of Government Code conflicts with a specific provision in Chapter 30, Subchapter N, as amended, or Article VIII of this Charter then the specific provision(s) controls.

ARTICLE IX. FINANCIAL PROCEDURES

Section 9.01. Fiscal year.

The fiscal year of the city shall begin on the first day of October and end on the last day of September of the next succeeding year. Such fiscal year shall also constitute the budget and accounting year.

Section 9.02. Submission of budget and budget message.

On or before the first day of August of each year, the manager shall submit to the council a budget for the ensuing fiscal year and an accompanying message.

Section 9.03. Budget message.

The manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the manager deems desirable.

Section 9.04. Preparation and submission of budget.

The budget shall provide a complete financial plan for the fiscal year, and shall conform to all requirements of State laws in regards to its preparation, submission and filing as well as any

requirements mandated the City Council. The budget shall conform to recommendations for budgets and crediting procedures as prescribed by the Municipal Finance Officers Association to the extent possible.

Section 9.05. Budget a public record.

The budget and all supporting schedules shall be filed with the City Secretary before the 30th day before the date the City Council adopts the tax levy for the fiscal year or as otherwise specified by State law and shall be opened to public inspection by anyone interested.

Section 9.06. Public hearing on budget.

At the Council Meeting at which time the budget is submitted, the Council shall name the date and place of a public hearing on the budget and shall cause to be published in the official newspaper of the City the time and place of the hearing which may not occur earlier than sixteen (16) days after the budget is filed with the City Secretary or as otherwise specified by State law. At this hearing, interested citizens may express their opinions concerning items of expenditures, giving their reasons for wishing to increase or decrease any items of expense.

Any public hearings regarding tax rates involved in the preparation of the budget shall be in accordance with the V.T.C.A. Tax Code, as amended, or as otherwise specified by State law.

Section 9.07. Proceeding on adoption of budget.

After public hearing, the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, at least ten (10) days prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of all members of the Council. Should the Council take no final action on or prior to such day, the budget as submitted by the City Manager shall be deemed to have been finally adopted by the Council.

The adoption of the tax rate for the fiscal year shall be in accordance with the V.T.C.A Tax Code, as amended, or as otherwise specified by State law.

Section 9.08. Budget, appropriation and amount to be raised by taxation.

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the council shall constitute the official appropriations as proposed expenditures for the current year and shall constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriations may be transferred to any item required for the same general purpose.

Section 9.09. Contingent appropriation.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than five (5) per cent of the total general fund expenditures, to be used in case of unforeseen items of expenditures. Such contingent appropriation shall be under the control of the city manager and distributed by him only after prior approval by the city council. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the departments or activities for which the

appropriations are made.

Section 9.10. Amending the budget.

Under extreme emergency conditions which may arise and which could not reasonably have been foreseen in the normal process of planning the budget, the Council may, by a majority vote of the full membership, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance, shall become an attachment to the original budget and be in accordance with State law.

Section 9.11. Certification; copies made available.

A certified copy of the budget, as finally adopted, and any ordinance amending the budget shall be filed with the City Secretary, and such other places required by state law or as the City Council shall designate. The final budget shall be printed, mimeographed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies and for the use of interested persons and civic organizations.

Section 9.12. Defect shall not invalidate the tax levy.

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

Section 9.13. Finance.

A central accounting system shall be established, and insofar as local conditions will permit, all functions of accounting, financing, inventory, and budget controls will be centralized therein. The City Manager shall perform, or delegate to one or more officers designated by him, the following duties and responsibilities:

- (a) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;
- (b) Maintain a general accounting system for the City government and each of its offices, departments and agencies, keep books for and exercise financial budgetary control over each office, department and agency, keep separate accounts for the items of appropriation contained in the City budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the City government to be made daily or at such intervals as he may deem expedient;
- (c) Submit to the Council a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial conditions of the City of Longview;
- (d) Have custody of all public funds belonging to or under the control of the City of Longview, or any office, department or agency of the City government, and deposit all funds coming into his hands in such depository or depositories as may be designated by the City Council, subject to the requirements of law in force from time to time as to the furnishing of bond, the deposit of securities, the awarding of the depository contract and the payment of

interest on deposits;

- (e) Have custody of all investments and invested funds of the City government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the City of Longview and the receipt and delivery of City of Longview bonds and notes for transfer, registration or exchange; however, all investments of public funds shall be governed by the Public Funds Investment Act in Chapter 2256 of the Texas Government Code, as amended, or as otherwise specified by State law.;
- (f) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government and prepare the periodical inventories of supplies, materials and City-owned property; and
- (g) Approve all proposed expenditures and unless there is an unencumbered balance of appropriations and available funds, no expenditure shall be made.

Section 9.14. Accounting supervision and control.

The city manager or such officer or officers designated by him shall have power and shall be required to:

- (a) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the city government;
- (b) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;
- (c) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges; and
- (d) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office.

Section 9.15. Lapse of appropriations.

All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

Section 9.16. Fees shall be paid to City of Longview.

All fees received by any officer or employee shall belong to the city and shall be accounted for and paid to the department of finance at such times as required by the city manager except as otherwise provided.

Section 9.17. Sale of city property.

In the sale of personal property valued at more than fifteen thousand dollars (\$15,000.00), the property shall be advertised for sale and bids in the local newspaper. The contract of sale shall be awarded to the highest responsible bidder, either at auction or upon sealed bids, after such public notice and competition as may be prescribed, and upon such other terms and conditions not inconsistent with express provisions of law and of this Charter, as the City Council may order; provided the City Council shall have the power to reject any and all bids and advertise again. These same procedures shall be used whenever the City of Longview acts as transfer agent. Sale or exchange of real property shall be in accordance with the provisions of V.T.C.A., Local Government Code, Chapter 272, as amended, and as otherwise specified by state law. Sale of park land shall be in accordance with the provisions of V.T.C.A., Chapter 253, Local Government Code, as amended, and as otherwise specified by State law.

Section 9.18. Purchase procedure.

Expenditures shall be made according to procedures established by ordinance of the City Council for all budgeted items exceeding fifteen thousand dollars (\$15,000.00). All contracts or purchases involving more than fifteen thousand dollars (\$15,000.00) shall be let to the lowest and best bid by a responsible bidder after there has been an opportunity for competitive bidding in accordance with the requirements of V.T.C.A., Local Government Code Chapter 252 and any present or future amendments relating thereto. Provided, however, the Council shall have the right to reject any and all bids. Provided, further, nothing herein shall apply to contracts for personal or for professional services nor to work done by the City and paid for by the day as such work progresses nor to the purchase of real estate, nor to any other expenditure otherwise excepted from the competitive bidding requirements of State law. Emergency purchases are authorized under circumstances and in accordance with procedures set forth under V.T.C.A., Local Government Code Chapter 252 and any present or future amendments relating thereto. Preference to local bidders in the purchasing of real property or personal property not affixed to real property is authorized under circumstances and in accordance with procedures set forth under V.T.C.A., Local Government Code § 271.905 and any present or future amendments thereto.

Section 9.19. Disbursement of funds.

All checks, vouchers or warrants for the withdrawal of money from the city depository shall be signed by the city manager and countersigned by the finance officer, if there is one officially designated, or, if not, then by the city secretary and/or by such other persons as designated by the city council.

Section 9.20. Borrowing in anticipation of property taxes.

For the purpose of temporary borrowing, the city council shall have the power by ordinance to raise money on the credit of the city by the issuance of warrants, certificates of obligation and/or notes in anticipation of the collection of taxes, of special assessments, or of other anticipated revenues.

Section 9.21. Sale of notes; report of sale.

All notes issued pursuant to this article may be sold at not less than par and accrued interest at private sale without previous advertisement, and such sale shall be authorized by the council.

Section 9.22. Surety bonds.

The directors of all administrative departments whose duties include the handling of moneys, and all employees whose duties include the handling of moneys, belonging to the City of Longview, shall, before entering upon the duties of their office or employment, make bond in some responsible surety company authorized to do business in the state, acceptable to the city council. Any such surety bond shall be conditioned that the principal thereon will faithfully perform and/or discharge the duties of his office, account for and pay over to the city all moneys and property coming into his hands belonging to the city, and if there are provisions of state law bearing upon the functions of his office under which the execution of a surety bond is required, it shall be further conditioned to comply therewith. Premiums for such surety bonds will be paid by the city.

ARTICLE X. INCURRING INDEBTEDNESS

Section 10.01. Powers to issue.

In keeping with the constitution of the State of Texas and not contrary thereto, the City of Longview shall have the power to borrow money on the credit of the city for any public purpose not now or hereafter prohibited by the constitution and laws of the State of Texas, and shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants, certificates of obligation and other evidence of indebtedness as now authorized or as may hereafter be authorized to be issued by any city under and in accordance with the restrictions, conditions and laws of the State of Texas.

Section 10.02. Sale of bonds.

No bonds issued by the City of Longview shall be invalid because they are sold for less than par value and accrued interest. The council shall have the right to reject any or all bids.

Section 10.03. Interest and sinking funds.

It shall be the duty of the Council to levy an annual tax sufficient to pay the interest on and provide the necessary sinking fund required by law on all outstanding general obligation bonds, time warrants, and certificates of obligation of the City. The proportion of ad valorem taxes which are devoted for debt service shall be subject to the limitations imposed by State law. The interest and sinking fund shall be deposited in a separate account and shall not be diverted to or used for any other purpose than to pay the interest and principal on all such bonds, time warrants, and certificates of obligations issued by the City of Longview. The sinking fund maintained for the redemption of any debt may be invested in any interest-bearing security authorized by the laws of this state. Investments of all sinking funds for interest shall mature at least fifteen (15) days prior to the date of payment due on bonds issued by the City of Longview. The Council may invest public funds as authorized by the Public Funds Investment Act of V.T.C.A., Chapter 2256 Government Code, as amended, or as to any lawful investment otherwise specifically permitted by State law.

Section 10.04. Revenue bonds.

The city shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self-liquidating municipal function not now or hereafter prohibited by any general laws of the state, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties or interest therein acquired and the income therefrom, and shall never be a debt of the city. All revenue bonds issued by the city shall be in accordance with state law.

Section 10.05. Execution and registration of bonds.

All bonds, warrants and certificates of indebtedness shall be signed by the mayor, countersigned by the city secretary, and sealed with the seal of the city in the manner provided by general law, and shall be payable at such times and place or places as may be fixed therein. It shall be the duty of the mayor, when such bonds are issued, to forward the same to the attorney general of the State of Texas for approval and for registration by the comptroller of public accounts.

Section 10.06. Bond register.

The director of finance or other officer of the city designated by the city manager shall keep, or cause to be kept, for and on behalf of the city a complete bond registry and books showing all bonds, warrants and certificates of indebtedness issued, the date and amount thereof, the rate of interest, maturity and other information pertinent thereto, of all bonds or other indebtedness surrendered and all other transactions of the council having reference to the refunding of the indebtedness surrendered and all other transactions of the council having reference to the refunding of the indebtedness of said city. When bonds or their coupons are paid, their payment or cancellation shall be noted in said registry. The books shall be safely kept among the records of the city.

ARTICLE XI. TAX ADMINISTRATION

Section 11.01. Reserved.

Section 11.02. Power to tax; franchise taxes; occupation taxes.

- (a) The city council shall have the power under the provisions of state law to levy, assess and collect an annual tax upon all taxable property within the city not to exceed the maximum provided by the constitution and general laws of the State of Texas.
- (b) The city council shall have the power annually to levy and collect a street rental charge against any public service corporation, person, or entity whether holding a franchise or not for the privilege of the use and occupancy of public streets, alleys or grounds of the city, separately from the tangible property of such corporations, companies and corporate institutions, as authorized by the state laws, and shall have the full power to enforce the collection of such rental charges.
- (c) The city council shall have the right to assess and collect such occupation taxes, licenses and franchise taxes upon trades, professions, occupations and any business transaction carried on in said city as may be authorized by the general laws of the State of Texas.
- (d) All existing taxes, assessments and charges of whatever kind or nature heretofore levied by the City of Longview shall remain in full force and effect until and unless repealed or changed by ordinance.

Section 11.03. Property subject to tax; method of assessment.

All property, real, personal or mixed, lying and being within the corporate limits of the City of Longview on the first day of January, not expressly exempted by law, shall be subject to annual ad valorem taxation at its true market value. The mode and manner of making renditions, tax lists, assessments, tax rolls, delinquent tax rolls, collections and procedures for enforcing collection of such taxes shall be in accordance with the state laws governing the levy and collection of ad valorem taxes by cities, school districts and counties. The Gregg County Appraisal District shall assess all property which has been omitted from assessment in prior years upon a current supplemental assessment roll. The taxes upon such supplemental assessments shall be due at once, and if not paid within sixty (60) days thereafter, shall be deemed delinquent, and shall be subject to the same penalty and interest as other

delinquent taxes for such year. If the ownership of any property should be unknown to the Gregg County Appraisal District shall enter that fact in the record.

In addition to the powers granted by this section, the City shall have the same power as county tax assessors and collectors in Texas to make back assessments, all at the same value and tax rates as such property should have been assessed and taxed for past years, and indicating the year or years for which it is assessed.

Section 11.04. Reserved.

Section 11.05. Reserved.

Section 11.06. Reserved.

Section 11.07. Reserved.

Section 11.08. Taxes; when due and payable.

All taxes due the City of Longview shall be payable at the office of the Gregg County Tax Assessor or as may otherwise be so designated and may be paid at any time after the tax rolls for the year have been completed and approved, which shall be not later than October first.

Section 11.09. Tax liens.

The tax levied by the city is hereby declared to be a lien, charge or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge and encumbrance on the property in favor of the city, for the amount of the taxes, penalties, interest and other costs due on such property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property, real, personal or mixed, upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January first in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can defeat such lien.

All persons or corporations owning or holding personal property or real estate in City of Longview on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year.

The personal property of all persons owing any taxes to the City of Longview is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

Section 11.10. Arrears of taxes offset to debt against city.

The city shall be entitled to counterclaim and offset against any debt, claim, demand or account owed by the city to any person, firm or corporation who is in arrears to the city for taxes, in the amount of taxes so in arrears, including all penalties and interest, and no assignment or transfer of such debt, claim, demand or account after the said taxes are due shall affect the right of the city to so offset against the same.

Section 11.11. Additional power of council.

Except as otherwise provided by law, or this Charter, the council shall have the power to provide by ordinance for the assessment and collection of all taxes, and to make such rules, regulations and mode of procedure to enforce the collection by and payment to the tax assessor-collector as it may deem expedient, and shall provide such penalties for the failure to pay such taxes as it may deem expedient.

ARTICLE XII. FRANCHISES AND PUBLIC UTILITIES

Section 12.01. Powers of the city.

In addition to the city's power to buy, construct, lease, maintain, operate and regulate public utilities and to manufacture, distribute and sell the output of such utility of such utility operations, the city shall have such further powers as may now or hereafter be granted under the constitution and laws of the State of Texas.

Section 12.02. Franchises; power of council.

The Council shall have any and all authority and power to grant, amend, renew or extend by ordinance all franchises of any and all public utilities of every character, including cable television, operating within the City of Longview, and for such purposes is granted full power allowed under state and federal law and the Texas and United States Constitutions. All ordinances granting, amending, renewing or extending franchises for public utilities shall be read at two (2) separate regular meetings of the Council and shall not be finally passed until thirty (30) days after the first reading; and no such ordinance shall take effect until sixty (60) days after its final passage; and pending such time, the full text of such ordinance shall be published once each week for four (4) consecutive weeks in the official newspaper of the City of Longview, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be transferable except to persons, firms or corporations taking all or substantially all of the holder's business in the City of Longview and except with the approval of the Council expressed by ordinance. No franchise shall be granted for an indeterminate term nor for a term of more than twenty-five (25) years. No exclusive franchise shall ever be granted. The City of Longview shall have any and all powers and authority in regards to any and all franchises allowed under state and federal law and the Texas and United States Constitutions.

Section 12.03. Franchise value not to be allowed.

In fixing reasonable rates and charges for utility service within the city and in determining the just compensation to be paid by the city for public utility property which the city may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the city under this Charter.

Section 12.04. Right of regulations.

All grants, renewals, extensions or amendments to public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

- (a) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.
- (b) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public.
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (d) To prescribe the form of accounts kept by each such utility. If the franchise or ordinance does not prescribe the form of accounts kept by each utility, then it shall keep its accounts in accordance with the utility system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commissioners, the State [of Texas] Railroad Commission of Texas, or their successors or other state or federal utility regulating agencies.
- (e) To examine and audit the accounts and other records of any such utility at any time and to require annual and other reports, including reports on local operations by each such public utility.
- (f) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public.
- (g) To regulate any and all franchises as may be allowed under state and federal law and the Texas and United States Constitutions.

Section 12.05. Consent of property owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance, or operation of any public utility, but nothing in this Charter or in any franchise granted thereunder shall ever be construed to deprive any such property owners of any right of action for damage or injury to his property as now or hereafter provided by law.

Section 12.06. Extensions.

All extensions of public utilities within the city limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant. In case of an extension of public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Section 12.07. Temporary permits.

Permits for minor or temporary privileges in the streets, public ways and public places of the city may be granted and revoked from time to time, provided they are unconditionally revocable at the will of the governing body. Such permits shall not be deemed franchises as the term is used in this Charter.

Section 12.08. Other conditions.

All franchises heretofore granted are recognized as contracts between the City of Longview and the grantee, and the contractual rights as contained in any such franchises shall not be impaired by the provisions of this Charter, except that the power of the City of Longview to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, and except the general power of the City heretofore existing and herein provided for to regulate the rates and services of a utility, which shall include the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council or the voters of the City in imposing terms and conditions as may be reasonable in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas. The City of Longview shall have any and all powers and authority in contracting for franchises as allowed under state and federal law and the [State of] Texas and United States Constitutions.

Section 12.09. Franchise records.

Within six (6) months after this Charter takes effect, every public utility and every owner of public utility franchise shall file with the city certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Longview. The city shall compile and maintain a public record of public utility franchises.

Section 12.10. Regulation of rates.

The City Council shall have the power by ordinance to fix and regulate, after public hearing and reasonable notice, the price of water, gas, electric lights, electric power, steam heat and cable television, and to regulate and fix the fares, and charges of local telephone service and charges of all public transportation of every kind, whether transporting passengers, freight, or baggage, and generally to fix and regulate the rates and charges of all public utilities of every kind operating within the corporate limits of the City of Longview. The City Council shall have any and all powers and authority in regards to franchise rate regulation allowed under state and federal law and the [State of] Texas and United States Constitutions.

ARTICLE XIII. BOARDS AND COMMISSIONS

Section 13.01. Boards and commissions.

The city council shall have authority to establish by ordinance such boards, commissions, and committees as it may deem necessary for the conduct of city business and management of municipal affairs. The authority, functions and responsibilities of such boards, commissions and committees shall be such as is spelled out in the ordinance establishing them. All existing boards and commissions heretofore established shall be continued in accordance with the ordinances or other acts under which they have been created, or until the city council shall by ordinance abolish, modify or alter the ordinances or acts under which they exist. Notwithstanding any other provision of this Charter the elected city council shall have paramount authority over all matters affecting the budgets, appropriation of funds, expenditures, purchases and sale of properties and procedures for accounting therefor, consistent with the express provision of this Charter and applicable provisions of the state constitution and laws of this state.

ARTICLE XIV. INITIATIVE, REFERENDUM AND RECALL

Section 14.01. Power of initiative.

The voters shall have power to propose any ordinance except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the Council by a petition signed by currently qualified voters of the City equal in number to at least ten (10) percent of the total number of the qualified voters registered to vote at the last regular municipal election. To be valid, a petition be submitted for the purpose of complying with an initiative election process shall comply with the Texas Election Code, as amended and shall be for a subject for which the initiative election process is authorized by State law.

Section 14.02. Power of referendum.

The voters shall have power to approve or reject at the polls any ordinance passed by the Council or submitted by the Council to a vote of the voters, such power being known as the referendum, except in cases of bond ordinances and ordinances making the annual tax levy. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty (20) days after the enactment by the Council of any ordinance which is subject to a referendum, a petition signed by currently qualified voters of the City equal in number to at least ten (10) percent of the total number of the qualified voters registered to vote at the last preceding regular municipal election may be filed with the City Secretary requesting that any such ordinance be submitted to a vote of the voters. To be valid, a petition be submitted for the purpose of complying with a referendum election process shall comply with the V.T.C.A., Election Code, as amended and shall be for a subject for which the referendum election process is authorized by State law.

Section 14.03. Frequency of election.

Special elections on initiated or referred ordinances shall be held on one of the uniform election dates as specified in the V.T.C.A. Election Code, as amended, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within one year from the date of such election.

Section 14.04. Form of petition.

Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his name in ink or indelible pencil, and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five (5) voters, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he only personally circulated the foregoing

paper, that it bears a stated number of signatures appended thereto which were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Section 14.05. Filing examination and certifications.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city secretary as one instrument. Within ten (10) days after the petition is filed, the city secretary shall determine whether each paper of the petition has a proper statement of the circulator, and whether the petition is signed by a sufficient number of qualified voters. The city secretary shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. After completing his examination of the petition, if the city secretary certifies that the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective, and shall at once notify the petitioners of his findings. The city secretary shall then notify the council of the results of his examination at its next regular meeting.

An initiative or referendum petition may be amended at any time within ten (10) days after the notification of the insufficiency has been sent by the city secretary, by filing of a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city secretary shall, within five (5) days after such an amendment is filed, make examination of the amended petition, and, if the petition be still insufficient, he shall file his certificate to that effect in his office, and notify the committee of petitioners of his findings, and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

When a referendum petition, or amended petition as defined above, has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the voters, as hereinafter provided.

Section 14.06. Council consideration and submission to voters.

Whenever the Council receives a certified initiative or referendum petition from the City Secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read, and provision shall be made for a public hearing upon the proposed ordinance. The Council shall take final action on the ordinance not later than sixty (60) days after the date on which such ordinance was submitted to the Council by the City Secretary. A referred ordinance shall be reconsidered by the Council, and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

If the Council shall fail to pass an ordinance proposed by the initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the voters on one of the uniform election dates as specified in the V.T.C.A., Election Code, as amended from the date the Council takes its final vote thereon. The Council may, in its discretion, and if no regular election is to be held within such period, provide for a special election. Special election laws as set out in the V.T.C.A., Election Code, as amended shall be applicable to, and control in all such elections.

Ordinances submitted to vote of the voters in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney, but it shall be finally approved by the City Council. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance and if a paper ballot is used, it shall have

below the ballot title the following propositions, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE," Any number of ordinances may be voted on at the same election, and may be submitted on the same ballot, but any paper ballot used for voting on an initiated or referred ordinance or ordinances shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two (2) propositions, one above the other or one preceding the other in the order indicated, and the voter shall be given an opportunity to vote for either of the two (2) propositions and thereby to vote for or against the ordinance.

Section 14.07. Referendum petitions; suspension of effect of ordinances.

When a referendum petition is filed with the city secretary, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition, or
- (b) The petitioners' committee withdraws the petition, or
- (c) The council repeals the ordinance, or
- (d) Thirty (30) days have elapsed after a vote for repeal of the ordinance has failed.

Section 14.08. Results of referendum elections.

If a majority of the voters voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the voters voting thereon shall thereupon be deemed repealed. If the conflicting ordinances are approved by the voters at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Initiative and referendum ordinances adopted or approved by the voters shall be published, and may be amended or repealed by the council, as in the case of other ordinances.

Section 14.09. Power of recall.

The people of the City or, in the case of a Councilman elected from a district, the people of that district reserve the power to recall any elected officer of the City or from that district. In the case of the Mayor elected at large, such power may be exercised by filing with the City Secretary a petition signed by currently qualified voters of the City equal in number to at least twenty five (25) percent of the total number of currently qualified voters registered to vote at the last regular municipal election demanding the removal of such elected officer. In the case of a Councilman elected from a district, such power may be exercised by filing with the City Secretary a petition signed by currently qualified voters of the district served by such Councilman equal in number to at least twenty-five (25) percent of the total number of currently qualified voters registered to vote at the last regular municipal election in such district demanding the removal of such elected officer. If the petition is certified by the City Secretary to be sufficient, the Council shall order and hold an election forthwith to determine whether such officer shall be recalled, and if the majority of the legal votes are cast for a recall of the officer named on the ballot, the Council shall immediately declare his office vacant, and such vacancy shall be filled forthwith in

accordance with the provisions of this Charter. No recall petition shall be filed against an officer within six (6) months after such elected officer takes office.

Any member of the City Council may be removed from office by recall. To be valid, a petition submitted for the purpose of complying with a recall election process shall comply with the Texas Election Code, as amended.

Section 14.10. Public hearing to be held.

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the city council, request that a public hearing be held to permit him to present pertinent facts. In this event the city council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

Section 14.11. Recall election.

The city secretary shall at once examine the recall petition and if he finds it sufficient and in compliance with the provisions of this article of the Charter, he shall within five (5) days submit it to the city council with the city secretary's certificate to that effect, and notify the officer sought to be recalled of such action. To be valid, a petition submitted for the purpose of complying with a recall election process shall comply with the V.T.C.A., Election code, as amended. If the officer whose removal is sought does not resign within five (5) days after such notice, the city council shall thereupon order and fix a date for holding a recall election. Any such election shall be held not less than thirty (30) nor more than ninety (90) days after the petition has been presented to the city council or after the public hearing provided in section 14.10 is held, if such hearing is requested, at the same time as any municipal election held within such period; but if no such municipal election be held within such period, the City council shall call a special election to be held within the time aforesaid.

All qualified voters of the City shall be entitled to cast ballots in a recall election of the Councilman elected at large and all qualified voters in the district in which a recall election for a Councilman elected from the district shall be entitled to cast ballots in the recall election in that district.

Ballots used at recall elections shall conform to the following requirements:

- (a) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of person) be removed from the office of Councilman by recall?"
- (b) Immediately below each such question there shall be printed the two (2) following propositions, one above the other, in the order indicated:

"For the recall of (name of person)"

"Against the recall of (name of person)".

Section 14.12. Results of recall election.

If a majority of the votes cast at a recall election shall be against the recall of the officer named in the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall. If a majority of the votes cast at such election be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office, and the

vacancy shall be filled by the city council as herein provided.

ARTICLE XV. GENERAL PROVISIONS

Section 15.01. Personal financial interests.

The Mayor, Council Members and other officers and employees of the City are subject to conflict of interest provisions as provided in V.T.C.A, Local Government Code Chapter 171 as amended. Any violations of this Section shall result in the forfeiture of office, position or job as well as any penalties provided by State law.

Section 15.02. Official oath.

All elected officers of the City shall, before entering upon the duties of their respective offices, take and subscribe the official oath prescribed by the constitution of the State of Texas. The oath of office shall be administered by the City Secretary or any other person authorized by law to administer oaths.

Section 15.03. Notice of claim.

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within six (6) months after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the conditions causing same, with a detailed statement of each item of damages and the amount thereof, and if it be for personal injuries, giving a list of any witnesses known by affiant to have seen the accident.

Section 15.04. Assignment, execution and garnishment.

The property, real and personal, belonging to the city shall not be liable for sale or appropriation under any writ or execution. The funds belonging to the city in the hands of any person, firm or corporation shall not be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Section 15.05. Security or bond not required.

It shall not be necessary in any action, suit or proceedings in which the city shall be a party for any bond, undertaking or security to be executed in behalf of the city, but all actions, suits, and proceedings shall be conducted in the same manner as if such bond, undertaking, or security had been given. The city shall have all remedies of appeal provided by law to all courts without bond or security of any kind. For the purposes of all such actions, suits, proceedings and appeals, the city shall be liable in the same manner and to the same extent as if the bond, undertaking or security had been executed and given.

Section 15.06. Nepotism.

The Mayor, City Council Members, officers and employees are subject to applicable nepotism provisions of Chapter 573 of the Texas Government Code, as amended.

Section 15.07. Fire limits.

The city council may establish fire limits and prescribe the kind and character of materials to be used in buildings constructed within such limits.

Section 15.08. When provisions take effect.

For the purpose of nominating and electing members of the council, the provisions of this Charter shall be in effect for the regular municipal election to be held in April, 1979. For all other purposes this Charter shall be in effect as provided in section 15.19.

Section 15.09. Ordinances, rules and regulations validated.

All ordinances, resolutions, rules and regulations of the City of Longview heretofore ordained, passed or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force until altered, amended or repealed by the city council after such Charter takes effect.

Section 15.10. Separability clause.

If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of a section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part to which such holding shall directly apply.

Section 15.11. Charter amendment.

This Charter may be amended in accordance with the procedures set forth in V.T.C.A., Chapter 9 Local Government Code and Article 11, Section 5 of the Texas Constitution as amended or as may be hereafter amended.

Section 15.12. Officers and employees.

- (a) Rights and privileges preserved. Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights of privileges of persons who are city officers or employees at the time of its adoption.
- (b) Continuance of office or employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect a city administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position. Any elected officer whose office becomes appointive or is or may be abolished by this Charter shall continue in office to which he or she was elected until his or her term expires, at which time such elective office is abolished as such.

Section 15.13. Departments, offices and agencies.

- (a) *Transfer of powers.* If a city department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated

in this Charter or if the Charter makes no provision, designated by the city council.

- (b) *Property and records.* All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the council in accordance with this Charter.

Section 15.14. Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this Charter.

Section 15.15. Judicial notice.

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

Section 15.16. Gender.

Wherever the context shall so require, the words "he," "him," "his," "councilman" and all other words herein in the male gender shall be deemed to include the female gender, all singular words shall include the plural, and all plural words shall include the singular.

Section 15.17 Reserved.

Section 15.18. Reserved.

Section 15.19. Charter to become effective on January 1, 1979.

The charter commission further directs that in order to permit an orderly transition from government of the city's affairs under the provisions of its present Home Rule Charter to those prescribed by this Charter, this Charter shall become effective and its provisions shall not be in force until January 1, 1979.